

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
NORTHERN DIVISION**

MCKLEIN COMPANY, LLC

Plaintiff,

v.

MONARCH DESIGNS, INC. and  
MONARCH LUGGAGE CO., INC.

Defendants.

**CASE NO. 08 CV 1491**

Judge David H. Coar

Magistrate Judge Jeffrey Cole

**MOTION FOR LEAVE TO WITHDRAW  
AS COUNSEL FOR DEFENDANTS**

The law firm of Greenberg Traurig, LLP (“GT”) and its attorneys Howard E. Silverman and James J. Lukas, Jr. (collectively “the Movants”) respectfully request that they be permitted to withdraw as counsel of record for Defendants Monarch Designs, Inc. and Monarch Luggage Co., Inc. (collectively, “Defendants”). In support hereof, Movants rely upon all matters of record to date and further state:

1. This is an action for alleged patent infringement of U.S. Patent Nos. 6,595,334 and 6,994,193 by Defendants. Plaintiff filed its Complaint on March 12, 2008. Defendants filed their Answer and Counterclaims on June 9, 2008. Plaintiff has failed to respond to Defendants’ Counterclaims. As previously represented to the Court, the parties have engaged in settlement discussions. Settlement discussions have not resulted in an agreement. A Rule 16(b) Scheduling conference was held on July 22, 2008. No depositions have been noticed or taken. There are no motions currently pending.
2. In view of recent events as set forth below, Movants have determined they must withdraw as counsel for Defendants in this matter.

3. Defendants have taken affirmative steps to close their businesses and in furtherance thereof Defendants formally executed an Assignment For the Benefit of Creditors pursuant to Delaware state law on August 18, 2008. The Assignee will be proceeding with the filing of the Assignment with the Delaware State Court. Given Defendants' financial situation and the closing of its businesses they cannot fulfill their obligations to Movants with respect to the expenses and fees required to litigate this matter further.

4. Movants have taken reasonable steps to avoid foreseeable prejudice to Defendants' rights, including giving due notice to Defendants, delivering to Defendants all papers and property to which Plaintiff is entitled, and complying with applicable laws and rules.

5. On August 19, 2008, Movants conferred with counsel for Plaintiff by telephone to explain the situation and inform Plaintiff's counsel of Defendants' execution of the Assignment for the Benefit of Creditors. Within hours after that conference, Plaintiff's served Defendants with written interrogatories by facsimile on August 19, 2008. (The undersigned had earlier informed Plaintiff's counsel of Defendants' financial difficulties prior to the July 22, 2008 Scheduling Conference.)

6. Due to the early stage of the litigation none of the parties will be prejudiced by the granting of this motion.

7. This request is made in the interests of justice and not for the purposes of delay.

WHEREFORE, Movants respectfully request that they be granted leave to withdraw as counsel for Defendants.

Dated: August 21, 2008

Respectfully submitted,

/s/ Howard E. Silverman

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